

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation By The Department On Its Own)

Motion As To The Propriety Of The Rates)

And Charges Set Forth In The Following)

Tariffs: M.D.T.E. Nos. 14 And 17, Filed With) D.P.U. No. 98-57

The Department On December 11, 1998, To)

Become Effective January 10, 1999, By New)

England Telephone And Telegraph Company)

D/B/A Bell Atlantic-Massachusetts)

COMMENTS OF

Z-TEL COMMUNICATIONS, INC.

Z-Tel Communications, Inc. ("Z-Tel"), by its attorneys, hereby submits its comments in response to the Hearing Officers' Memorandum setting the procedural schedule for commenting on Bell Atlantic-Massachusetts' ("BA-MA's") January 14, 2000 tariff filing on the rates and regulations for the combination of unbundled network elements ("UNEs") known as the "UNE-P." In these comments, Z-Tel first provides the Department with an overview of Z-Tel and its business plan. Next, Z-Tel offers cautious support of BA-MA's proposed UNE-P tariff, subject to a modest request for clarification. Z-Tel goes on to recommend that the Department utilize Tariff 17 and similar tariffs as its baseline vehicle for making the prices, terms, and conditions of interconnection and UNEs generally available to competitors in Massachusetts.

I. OVERVIEW OF Z-TEL

Z-Tel is a Tampa, Florida-based integrated communications provider that is focused on providing local, long-distance, and enhanced services to residential consumers. In June of 1999, Z-Tel launched a residential service offering in New York, and in December of 1999, Z-Tel began offering residential service in Texas. In each of these states, Z-Tel's residential service offering includes a package of long distance, unlimited local calling, voicemail, caller ID, "follow-me," and a number of other enhanced services. Residential customers also may purchase dial-up Internet access as part of their service package.

Z-Tel delivers its telecommunications services to residential customers in New York and Texas over the UNE-P. Z-Tel independently provides the long distance and enhanced services portions of its package. Z-Tel plans to use the UNE-P as an entrance strategy to build a large base of residential customers to achieve the economies of scale necessary to deploy facilities. Upon achieving the necessary scale, Z-Tel's business plan calls for deploying the next generation of Class 4 and Class 5 packet switches.

Z-Tel's business plan calls for a residential service roll out in Massachusetts during March 2000. As in New York and Texas, Z-Tel plans to roll out residential local exchange service in Massachusetts through purchasing BA-MA's UNE-P offering. Therefore, the ultimate terms, conditions, and prices of BA-MA's UNE-P offering is of critical importance to Z-Tel.

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II. Z-TEL OFFERS CAUTIOUS SUPPORT OF BA-MA'S PROPOSED TARIFF 17 UNE-P OFFERING, SUBJECT TO A CLARIFICATION REGARDING THE APPLICATION OF NONRECURRING CHARGES

In preparation for its March 2000 service roll out, Z-Tel has reviewed carefully BA-MA's Tariff 17 UNE-P offering. Z-Tel is pleased to note that BA-MA's UNE-P tariff description contains detail sufficient for Z-Tel to gain a firm understanding of the costs it will incur when purchasing the UNE-P, as well as the various terms and conditions associated with the underlying network elements. Although Z-Tel will not know for sure whether its understanding of the pricing of the UNE-P exactly matches that of BA-MA until such time as a bill for wholesale service is received, Z-Tel is sufficiently comfortable with BA-MA's proposed UNE-P tariff to offer cautious support.

While Z-Tel generally is comfortable with BA-MA's tariffed UNE-P product, BA-MA should clarify how it plans to assess service order non-recurring charges ("NRCs") on the UNE-P. First, BA-MA should clarify that it does not apply a service order NRC for UNE-P orders requesting a single two-wire link. Second, for multi-link orders, BA-MA should clarify that it assesses only a single service order charge per batch submitted. As presently drafted, it is unclear how BA-MA plans to apply the service order NRC.

III. THE DEPARTEMENT SHOULD UTILIZE TARIFF 17 AND RELATED TARIFFS AS THE PRIMARY MEANS FOR MAKING RATES, TERMS, AND CONDITIONS OF INTERCONNECTION AND UNES GENERALLY AVAILABLE TO COMPETITORS

Z-Tel strongly supports the Department's effort to utilize tariffs as a means of making the rates, terms, and conditions of interconnection and UNEs generally available. Indeed, the availability of interconnection and UNEs by tariff in New York had a direct impact on Z-Tel's decision to select New York as the first state in which Z-Tel rolled out its residential service offering. Z-Tel believes that a Department decision to utilize tariffs as the primary means for making interconnection and UNEs generally available will encourage numerous competitors, including smaller companies, to enter local markets in Massachusetts.

A strong tariffing requirement provides at least three benefits to competitors. First, through tariff review proceedings, such as this docket, competitors can verify that BA-MA is providing service offerings that are consistent with the Department's findings in rate cases and arbitration proceedings. Second, tariff modifications ordered by the Department become generally available to all competitors, rather than individual competitors, as can be the case when an interconnection or UNE rate, term, or condition is established through arbitration proceedings. Third, the availability of comprehensive interconnection and UNE tariffs makes it very easy for companies that presently are not providing service in Massachusetts to get a firm understanding of the prices, terms, and conditions of interconnection and UNEs in the Commonwealth.

To strengthen the Department's existing tariffing procedures, Z-Tel makes three basic recommendations. First, the Commission should require BA-MA to incorporate interconnection and UNE performance standards in its wholesale tariffs. Performance standards are common in retail tariffs, and including them in wholesale tariffs will clarify for both competitors and BA-MA the level of service quality expected by the Department. Second, the Department, as a matter of standard procedure, should require BA-MA to implement Department decisions through tariff filings, in addition to any remedy afforded an individual competitor. Unless BA-MA is consistently required to implement Department decisions through tariff updates, tariffs will lose their effectiveness in making widely known the status of interconnection and UNE offerings in Massachusetts. Third, modifications proposed by BA-MA to interconnection and UNE tariffs should be distributed widely and put out for public comment before taking effect. A strong notice and comment policy will keep competitors up to date, and also help the Department build a record to ensure that its decisions are implemented properly. By taking these steps, the Department will ensure that wholesale tariffs in Massachusetts become effective tools for tracking

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and disseminating information regarding the prices, terms, and conditions of interconnection and UNEs.

IV. CONCLUSION

For the reasons outlined above, Z-Tel cautiously supports BA-MA's Tariff 17 UNE-P proposal, subject to the clarification requested. Z-Tel also recommends that the Department utilize Tariff 17 and similar wholesale tariffs as the vehicle for making the prices,

terms, and conditions of interconnection and UNEs generally available to competitors in Massachusetts.

Respectfully submitted,

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